IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9227 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHANKARBHAI BECHARBHAI PRAJAPATI

Versus

MUNICIPAL COMMISSIONER AHMEDABAD

Appearance:

1. Special Civil Application No. 9227 of 2002

MR VM DHOTRE for Petitioner No. 1

MR HS MUNSHAW for Respondent No. 1-2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 22/10/2002

ORAL JUDGEMENT

Rule. Mr HS Munshaw, learned counsel waives service of Rule for the respondents.

2. The petitioner was an employee of the Ahmedabad Municipal Transport Service. The petitioner retired as

an Assistant Traffic Inspector on 1.5.2001. The petitioner is, however, not paid his retiral dues like provident fund, gratuity and commutation of pension. The petitioner submits that apart from the fact that any retired employee would need the retiral dues immediately after retirement, in the peculiar facts of the present case, the petitioner needs the amounts all the more badly because the petitioner suffered from heart attack on 29.5.2002 and the petitioner is advised to undergo by-pass surgery for which the petitioner will need the amount to the tune of Rs.1,75,000/-.

3. Mr Munshaw for the AMTS submits that very recently this Court has passed order dated 11.10.2002 in Special Civil Application No. 3414 of 2002 and connected matters wherein this Court has noted the financial difficulties of the AMTS and has given directions to pay the retired employees the arrears of provident fund by 30.6.2003 and the arrears of gratuity and other dues by 30.6.2004. It is, therefore, submitted that the AMTS will make an endeavour to pay the petitioner his retiral dues within the aforesaid time limit.

4. However, considering the peculiar facts of the present case especially the ailment being suffered by the petitioner and the expensive medical treatment for which the petitioner will have to spend substantial amounts, the respondents are directed to grant the petitioner, as a special case, all his retiral dues including the provident fund, gratuity and leave encashment, if any, as expeditiously as possible and in any case by 30.11.2002.

It is clarified that as already indicated in the aforesaid order, the respondent authorities are not bound to accede to the request for commuted pension, as the AMTS authorities have preferred to give full monthly pension.

4. The petition is accordingly disposed of in terms of the aforesaid directions. Rule is made absolute to the aforesaid extent with no order as to costs.

A copy of this order shall be made available to Mr Munshaw for timely compliance with the directions contained in this order.

Direct Service is also permitted.

(M.S. Shah, J.)

sundar/-